

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Examine the
Commission's Future Energy Efficiency Policies,
Administration and Programs.

Rulemaking 01-08-028
(Filed August 23, 2001)

**ADMINISTRATIVE LAW JUDGE'S RULING
DENYING THE REQUEST OF THE BUILDING INDUSTRY
INSTITUTE FOR A FINDING OF ELIGIBILITY**

On October 10, 2001, the Building Industry Institute (BII) filed a Notice of Intent (NOI) to claim compensation for participation in this proceeding pursuant to Public Utilities Code Section 1801 et seq.¹ By ruling dated June 14, 2003, the assigned Administrative Law Judge found that BII had not satisfied the requirement that its members will suffer significant financial hardship from participating in this proceeding, and thereby become eligible for intervenor compensation.

The ruling invited BII to submit additional information in support of its NOI. BII subsequently submitted additional information. However, that information does not provide the support needed to modify the analysis or findings of the June 14, 2002 ruling. A review of BII's by-laws confirms that BII is managed by CBIA and CBIA's board controls BII's board. CBIA represents the

¹ Unless otherwise indicated, all subsequent citations to code sections refer to the Public Utilities Code.

interests of the building industry. Similarly, BII's by-laws define its purpose as providing services to "builders, developers and various supporting industries," and does not refer to the interests of utility customers or even those who ultimately purchase homes and buildings and become utility customers. Although the interests of BII and utility customers may overlap in some cases, this is true of many intervenors, including the utilities themselves. BII has not demonstrated that it has authority to represent customer interests where they may conflict with the interests of the building industry. Consequently, BII does not qualify for intervenor funding in this proceeding.

Therefore, **IT IS RULED** that Building Industry Institute is not eligible for intervenor compensation in this proceeding.

Dated May 16, 2003, at San Francisco, California.

/s/ KIM MALCOLM

Kim Malcolm
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Denying the Request of the Building Industry Institute for a Finding of Eligibility on all parties of record in this proceeding or their attorneys of record.

Dated May 16, 2003, at San Francisco, California.

/s/ ELIZABETH LEWIS

Elizabeth Lewis

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.